

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., et
al.,

Defendants.

CIVIL ACTION NO. 04-CV-11136GAO

AFFIDAVIT OF KIMBERLY YORK

I, KIMBERLY YORK, under oath, declare as follows:

1. I am the accounts payable manager of defendants Direct Marketing Concepts ("DMC") and ITV Direct, Inc. ("ITV Direct"), and am responsible for the accounts payable operations of each company. I make this affidavit on the basis of my own personal knowledge of the facts set forth herein and could testify competently thereto if called to do so.

2. William Tarmey was employed by DMC for approximately three months in early 2003 as an accountant, with responsibility for assisting in the maintenance of the books and records of the company. In the resume submitted by Mr. Tarmey in connection with his application for employment, as well as in his interview, he represented that he had received a degree in accounting from Northeastern University. A copy of the resume submitted by Mr. Tarmey to DMC is attached as Exhibit A.

3. During the three months that Mr. Tarmey was employed by DMC, he demonstrated few accounting skills and was unable to perform his job satisfactorily. His deficiencies caused serious problems for the company, as certain required payments on behalf of the company and its employees were not made timely or at all.

4. In April 2003, we discovered that funds that had been entrusted to Mr. Tarmey were missing, and suspected that these funds had been stolen. When confronted with the

evidence of the missing funds, Mr. Tarmey denied the allegations, but could not produce any evidence of where the money had gone. The money has never been accounted for by DMC.

5. In addition, concerned with Mr. Tarmey's theft of funds, we sought to confirm that he was an accountant and had received his degree from Northeastern University as represented on his resume. We then received correspondence from Northeastern stating that Mr. Tarmey "did not receive a degree" and "only attended one class." A copy of this correspondence is attached as Exhibit B. Because it was clear that Mr. Tarmey had lied to us on numerous occasions, his employment was immediately terminated.

6. In connection with investigating Mr. Tarmey's background and credentials, we also learned that Mr. Tarmey has substantial United States and Massachusetts tax liens against himself and his property, totaling over \$300,000. Our belief at the time, and presently, was that Mr. Tarmey was stealing money because he was having serious financial problems. Given the massive number of tax liens against Mr. Tarmey, DMC determined not to pursue recouping the amounts stolen by Mr. Tarmey. We presumed that termination of his employment was sufficient.

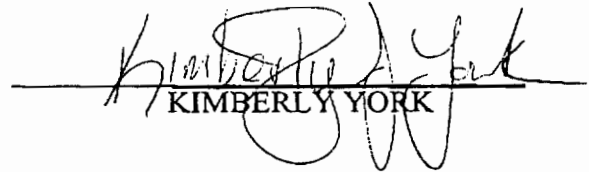
7. In addition to his theft of company assets, we have recently uncovered evidence that Mr. Tarmey has stolen additional funds from Mr. Barrett personally. Specifically, an account in Mr. Barrett's name to which Mr. Tarmey had access codes has been drained of virtually all of its funds, in the tens of thousands of dollars. Mr. Barrett is currently investigating this matter and intends to file a civil action to recoup the funds and swear out a criminal complaint against Mr. Tarmey in connection with this theft. Mr. Tarmey has been notified of Mr. Barrett's intentions.

8. Finally, since his termination from DMC, Mr. Tarmey has started a competing business, InfoTV, Inc., which according to its website is "a full service production and marketing company specializing in direct response marketing via infomercial." A copy of the website for Mr. Tarmey's competing business is attached as Exhibit C. We believe he has contacted our distributors, contacts and customers in an effort to take business away from DMC. Based upon

conversations with third parties, we also believe has attempted to use the present FTC action and investigation to his advantage in these discussions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of June, 2004 at Beverly, Massachusetts.


KIMBERLY YORK